IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 17704 of 2004

Between:

Jandhyala Srinivasa Rao, S/o J.v. Subba Rao,
R/o Door No. 35-79, Brundavan Colony,

Ramakrishnapuram, Neredmet X Roads, Hyderabad.

..... PETITIONER

AND

1. The Chief Manager and Competent Authority,

Andhra bank zonal Office, Hyderabad.

2. The Branch Manager, Andhra Bank,

SSI Mallapur Branch, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ order or direction declaring the impugned order Letter No. 688/20/C-7679/3684, dated 25-9-2004 on the file of the Chief Manager and Competent Authority, Andhra Bank, Zonal Office, Hyderabad as illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner: MR.D.KRISHNA MURTHY

Counsel for the Respondents: MR.N.RAMAMOHANA RAO

S.C. for Andhra Bank

The Court at the stage of admission made the following

ORDER:

The petitioner is working as a Cashier in the respondent- Bank. He was served with an order of suspension dated
25-09-2004, which reads as follows:

> "Pending enquiry into certain acts of gross misconduct alleged to have been committed by you while working as Joint Custodian Cashier at SSI Mallapur Branch, you are hereby placed under suspension with immediate effect.
>
> You are entitled to draw subsistence allowance at the following rates as per the provisions of Bi-partite settlement.
>
> i. 1/3rd of the Pay and allowances for the first three months of suspension period.
>
> ii. ½ of Pay and allowances for the remaining period of suspension.
>
> You are advised to leave your residential address at SSI Mallapur Branch, Hyderabad, for further correspondence in the matter and you should not leave the Head quarters without prior permission from the competent authority."

The petitioner approached this Court through Writ Petition contending that the first respondent did not mention as to the nature of mis-conduct of the petitioner and the reasons that made the respondent to keep the petitioner under suspension. Therefore, he sought for a direction that the impugned order dated 25-09-2004 passed by the first respondent is illegal, arbitrary and violation of the principles of natural justice. In support of his contention, the learned counsel for the petitioner

relied on a judgment in ***STATE OF ORISSA v. BIMAL KUMAR MOHANTY*** wherein the Supreme Court held as follows:

> "It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending inquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the inquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or inquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending inquiry or contemplated inquiry or investigation. It would be another thing if the action is actuated by mala fides, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental inquiry or trial of a criminal charge."

The judgment of the Supreme Court makes the position very clear that the disciplinary authority while passing an order of suspension should keep in mind the public interest regarding the impact of the delinquent's continuance in office while facing departmental inquiry and should mention that the said order of suspension was passed after taking into consideration the gravity of the mis-conduct sought to be enquired and that there was application of mind before passing the said order.

In the light of the above judgment of the Supreme Court, the order of the first respondent dated 25-09-2004 cannot sustain for want of sufficient reasons.

In the light of the above circumstances, the Writ Petition is allowed and the order of the first respondent dated

25-09-2004 is set aside. This order will not preclude or is not a bar for the respondents to pass appropriate orders according to law. No costs.

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Dr.G.Yethirajulu, J

1st October, 2004

lsn

To

1. The Chief Manager and Competent Authority,

Andhra bank zonal Office, Hyderabad.

2. The Branch Manager, Andhra Bank,

SSI Mallapur Branch, Hyderabad.

3. Two CD copies.